IAB INVESTIGATIVE SUMMARY

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

SIGNIFICANT FORCE INCIDENT EVALUATION

UNIT: Men's Central Jail
DATE: October 18, 2009 (Sunday)
TIME: 1445 hours
LOCATION: 441 Bauchet Street, Los Angeles, CA 90012
URN#: 009-01478-5100-145
IAB#: **FO2253461 / IV2255927**

NATURE OF
INCIDENT: Deputies Fernando Luviano and [redacted] were involved in a use of force that resulted in Inmate Michael Holguin receiving significant injuries. The incident occurred as Deputies Luviano and [redacted] were conducting showers in the 3500-3700 Module. Inmate Holguin, who was housed in 3500 Charlie Row Cell #22, accepted the opportunity to take a shower. When his turn had arrived he was handcuffed inside of his cell and escorted to Cell #1 where the shower was located. As he walked towards cell #1 he advised Deputy Luviano that he wished to talk to him about something. Deputy Luviano agreed to talk to him and walked him away from the row so that the other inmates could not hear what they were discussing. Deputy Luviano walked Holguin into the adjacent security cage and, while still handcuffed, instructed him to face the wall. Inmate Holguin resisted and turned to talk to him. Deputy Luviano placed his left hand on Holguin's right shoulder and guided his upper torso back towards the wall. Holguin reacted by suddenly kicking him (Luviano) on his left shin with his right leg by stomping downward. Deputy Luviano immediately punched Holguin three times in the stomach. He placed his right arm around Holguin's neck and tried to force him to the ground. He was unsuccessful as Holguin flailed his body. He attempted again to take him down wrapping his arm around Holguin's neck and forcing him to the ground. This time he was successful as Holguin fell, face first onto the concrete floor. Once on the ground Holguin continued to kick his feet and attempt to stand up. Deputy Luviano ordered him several times to sop fighting. Holguin refused and continued kicking his feet at him. Deputy Luviano deployed his pepper spray and sprayed a 2-3 burst directly into Holguin's face.

The pepperspray was not effective as Holguin continued to kick his feet violently. Deputy Luviano gave him several more verbal commands but Holguin refused to comply. Deputy Luviano deployed his flashlight and, while still kneeling beside him, struck Holguin 2-3 times on his legs. At this point Deputy [redacted] arrived and assisted him in subduing Holguin by delivering 3-5 strikes directly into Holguin's rib and back

area. Inmate Holguin stopped resisting and complied with their verbal commands.

Inmate Holguin's injuries included a fractured right ankle, pain and swelling to his left knee, laceration on top of his forehead and over his right eyebrow.

I.A.B. Note: Deputy Luviano's Incident Report and Deputy [redacted] Supplemental report have been included in this case.

INVOLVED PERSONNEL:

Luviano, Fernando- Deputy, Employee #[redacted]
Men's Central Jail
Module 3500-3700
Custody Division

EMPLOYEE'S WORK HISTORY:

Date of Employment: 06-02-08
Date Assigned to MCJ: 06-02-08
Prior Founded Force Incidents: [redacted]

[redacted]- Deputy Sheriff, Employee #[redacted]
Men's Central Jail
Module3500-3700
Custody Division

EMPLOYEE'S WORK HISTORY:

Date of Employment: [redacted]
Date Assigned to MCJ: [redacted]
Prior Founded Force Incidents: [redacted]

INVOLVED SUSPECT (S):

Holguin, Michael MH/04-22-80, Booking #2083113
[redacted]
CII: [redacted] FBI#: [redacted]

Involved Suspect Criminal History:
[redacted]

(Refer to Exhibit B)

INVOLVED DEPUTY WITNESSES:

None

NON-DEPARTMENT WITNESSES:

None

INVOLVED EMPLOYEE STATEMENTS:

Deputy Fernando Luviano #[redacted]

Deputy Fernando Luviano was interviewed on November 24, 2009 at the Internal Affairs Bureau office by Sergeants Albert Maldonado and Scott Hill. The interview was digitally recorded and transcribed. The following is a summary of the interview.

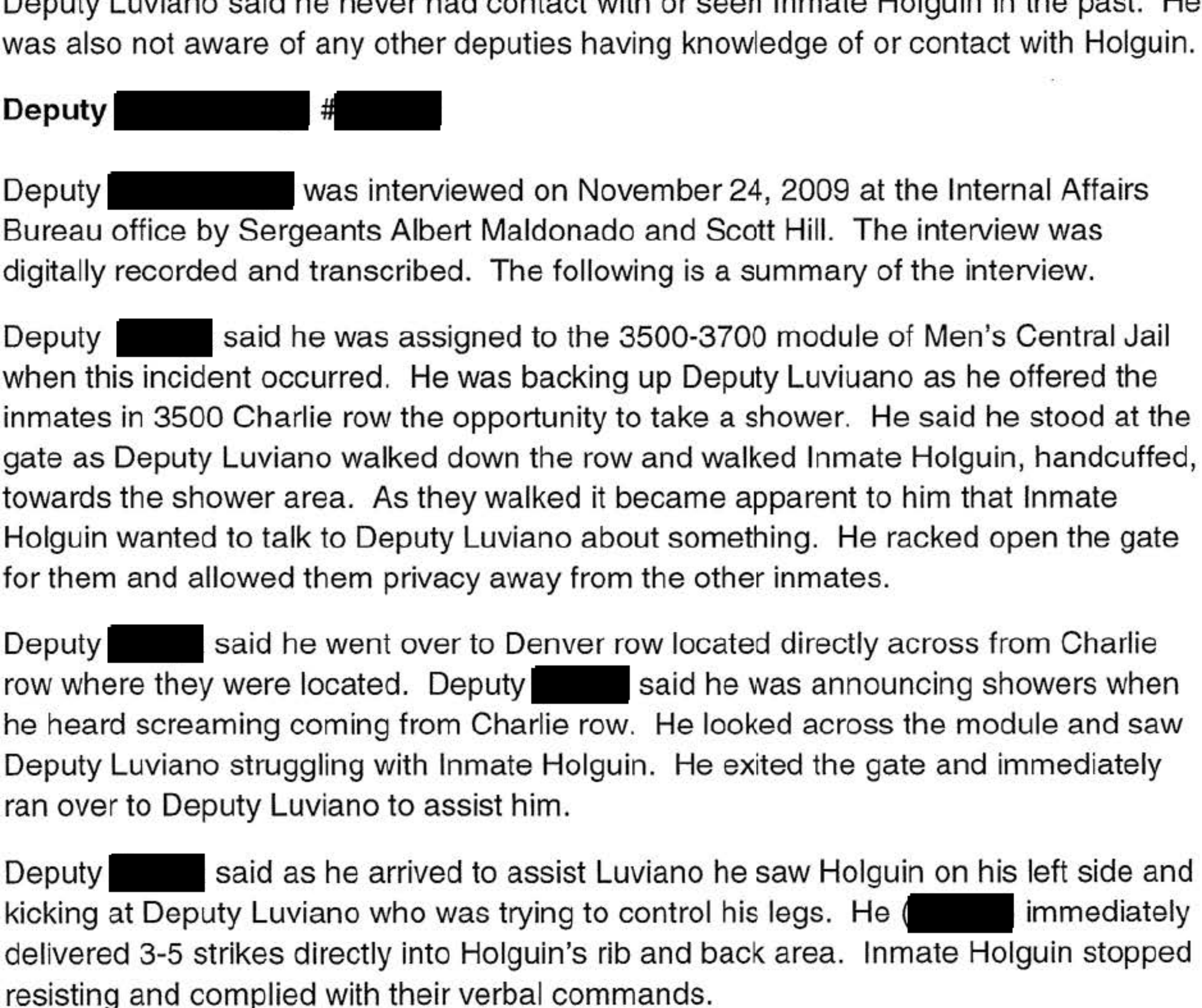
Deputy Luviano said he was assigned to the 3500-3700 module on the shift this incident occurred. He said he and Deputy [redacted] were conducting showers by offering the inmates housed in he 3700 Charlie Row the opportunity to take a shower. He said Inmate Holguin was one of the inmates who accepted the opportunity to take a shower. When it was his turn, Deputy Luviano walked down the row to Holguin's cell (Cell #22). He handcuffed Holguin while he was still inside his cell and walked him to Cell #1 where the shower was located. As they reached the shower Holguin asked him if he could speak to him in private and said it was very important. He said since it appeared Holguin was calm he walked him off the row to speak with him away from the other inmates.

I.A.B. Note: The 3500 module houses inmates who are [redacted] from other inmates but have not yet been classified (fish).

Deputy Luviano said he walked Holguin into the adjacent security cage and, while still handcuffed, instructed him to face the wall. He said Holguin resisted and turned to talk to him. Deputy Luviano said he placed his left hand on Holguin's right shoulder and guided his upper torso back towards the wall. He said Holguin reacted by suddenly kicking him (Luviano) on his left shin with his right leg by stomping downward. He said he immediately punched Holguin three times in the stomach. He placed his right arm around Holguin's neck and tried to force him to the ground. He was unsuccessful as Holguin flailed his body. He attempted again to take him down by wrapping his arm

around Holguin's neck and forcing it to the ground. This time he was successful as Holguin fell, face first onto the concrete floor. Once on the ground Holguin continued to kick his feet and attempt to stand up. Deputy Luviano said he ordered him several times to sop fighting. Holguin refused and continued kicking his feet at him. Deputy Luviano said he deployed his pepper spray and sprayed a 2-3 second burst directly into Holguin's face.

Deputy Luviano said the pepperspray was not effective as Holguin continued to kick his feet violently. He said he gave him several more verbal commands but Holguin refused to comply. He said he began to feel overwhelmed by the kicks. He took out his flashlight and, while still kneeling beside him, struck Holguin 2-3 times on his legs. At this point Deputy [redacted] arrived and assisted him in subduing Holguin.



Deputy Luviano said he never had contact with or seen Inmate Holguin in the past. He was also not aware of any other deputies having knowledge of or contact with Holguin.

Deputy [redacted] #[redacted]

Deputy [redacted] was interviewed on November 24, 2009 at the Internal Affairs Bureau office by Sergeants Albert Maldonado and Scott Hill. The interview was digitally recorded and transcribed. The following is a summary of the interview.

Deputy [redacted] said he was assigned to the 3500-3700 module of Men's Central Jail when this incident occurred. He was backing up Deputy Luviuano as he offered the inmates in 3500 Charlie row the opportunity to take a shower. He said he stood at the gate as Deputy Luviano walked down the row and walked Inmate Holguin, handcuffed, towards the shower area. As they walked it became apparent to him that Inmate Holguin wanted to talk to Deputy Luviano about something. He racked open the gate for them and allowed them privacy away from the other inmates.

Deputy [redacted] said he went over to Denver row located directly across from Charlie row where they were located. Deputy [redacted] said he was announcing showers when he heard screaming coming from Charlie row. He looked across the module and saw Deputy Luviano struggling with Inmate Holguin. He exited the gate and immediately ran over to Deputy Luviano to assist him.

Deputy [redacted] said as he arrived to assist Luviano he saw Holguin on his left side and kicking at Deputy Luviano who was trying to control his legs. He ([redacted] immediately delivered 3-5 strikes directly into Holguin's rib and back area. Inmate Holguin stopped resisting and complied with their verbal commands.

Deputy [redacted] said he had never had contact with or seen Inmate Holguin in the past. Is was also not aware of any other deputies having knowledge or prior contact with Holguin prior to this incident.

SUSPECT'S STATEMENTS: Inmate Michael Holguin was interviewed on October 18, 2009 at the L.C.M.C. Hospital Jail Ward. The interview was conducted by Sergeants Albert Maldonado, Scott Hill and Lieutenant Scott Brickert. The interview was digitally recorded and the transcripts of the interview have been included in this case.

Inmate Holguin said the deputies assigned to his module offered his row the opportunity to take a shower. A deputy walked down his row and asked him if he wanted a shower. When he answered yes, the deputy wrote down his name or cell number and walked away. Several minutes passed when he heard his cell number being called to prepare for his shower. When his turn arrived the deputy "racked" (opened) his cell gate. He stepped out of his cell and towards cell #1 where the shower was located. As he neared the shower the deputy told him to return back to his cell. When he asked the deputy why, the deputy, who was behind the gate outside of the module, told him "I'll tell you why." The deputy, who he believes was named Lascano, instructed him to turn away from him and place his hands behind his back. He complied and placed his hands through the tray slot. The deputy hit his shower items out of his hands which caused them to fall on the floor. The deputy handcuffed him behind his back and then opened the gate. He was led outside of the gate and was immediately assaulted by the deputy. He said the deputy started hitting him in the chest and in the stomach and in an effort to protect himself he dropped on the ground and curled up on the floor. While he was on the floor the deputy started to yell at him to stop resisting as he continued to hit him throughout his entire body. He said the deputy peppersprayed him which caused him to close his eyes. He could not see what the deputy was doing and he was not aware there were any other deputies involved.

I.A.B. Note: Inmate Michael Holguin was re-interviewed by Sergeant Maldonado at the Wasco State Prison in Wasco. The interview was digitally recorded and the transcripts have been provided with this case.

At the start of the interview I provided Holguin with a copy of a handwritten affidavit that details Holguin's version of what occurred during the incident. Holguin explained he received a visit from an A.C.L.U. attorney approximately 10 days after the incident. He said her name was Mary but he could not recall her last name. The attorney told him she was talking to inmates housed in 3500 Charlie Row where this incident

occurred. She told him the inmates on his row were concerned for him because he was involved in a use of force by the deputies and had not returned. She was able to locate him because one of the inmate workers reached inside of his cell and retrieved information on how to contact his family. She told him she wanted to make sure he was still breathing.

Michael explained it was at this meeting when he was asked to dictate to her exactly what happened. He said she wrote down exactly what he dictated to her and then signed the last page of the declaration. After reviewing the copy of that declaration he told me it was completely accurate and he did not want to change, add or delete anything. He also re-signed the last page of the copy of the affidavit.

Michael added he does not know why the deputy used force on him. He said he had never had contact with that deputy or any other deputy while housed on that row. The only contact he had with the jail staff was when the sergeant asked him if he had recently received showers. When I asked him why all of the other inmates were able to receive their showers and he was the only one on the row denied the opportunity, he said he did not know but felt because he was last, the deputies may have run out of time. He reiterated he was cooperative with the deputy and the only communication he had with him was when he questioned him by saying "Why" when he was told to return to his cell prior to receiving his shower.

I.A.B. Note: The MCJ Shower Logs for Module 3500 (09-18-09 to 10-18-09) have been included in this case (Exhibit C).

DEPARTMENT WITNESS STATEMENTS:

None

NON-DEPARTMENT WITNESS STATEMENTS:

None

SUSPECT'S INJURIES:

Inmate Holguin's injuries included a fractured right ankle, pain and swelling to his left knee, laceration on top of forehead and over his right eyebrow.

DEPUTY PERSONNEL INJURIES:

None

PHYSICAL EVIDENCE:

No physical evidence was collected at the scene.

INVESTIGATORS OBSERVATIONS:

No observations.

WEAPONS USED BY DEPUTY PERSONNEL:

Personal weapons, hands, feet.

WEAPONS USED BY SUSPECTS:

Personal weapons, hands, feet.

PROPERTY DAMAGE:

None

CRIMINAL INVESTIGATOR and CHARGES FILED:

Investigator:	Jail Investigations Unit
Court:	C.C.B.
Charges Filed:	Case was presented to the District Attorney and was rejected because the suspect was already sentenced to State Prison.

WEATHER CONDITIONS AND LIGHTING CONDITIONS:

The incident occurred in a lighted jail module.